

C 3 64. (Amended) The loading and delivering apparatus recited in claim 60 wherein said elongated shaft includes a portion which is externally threaded and said main body portion includes a portion which is internally threaded wherein said externally threaded portion and said internally threaded portion are threadably engageable.

REMARKS

Reconsideration of the application in view of the above amendments and the following remarks is requested. Applicants have amended claims 50-51, 53, 54, and 64. No new matter has been added.

Claims 49-51, 53, 54, 60, 64 and 73 were rejected under 35 U.S.C. §112, second paragraph as being indefinite. Applicants suggest that the claims as filed were sufficiently clear for one of skill in the art, after having read the specification, to understand what is being claimed. It is noted that an identical set of claims had been allowed in the parent case. Thus, in the first examination, these same claims were found to have passed muster under section 112. Notwithstanding, in order to move this case towards allowance as promptly as possible, amendments have been made where appropriate and where the patent coverage due applicants will not be unnecessarily restricted. Withdrawal of the indefiniteness rejection is requested.

Applicants note that it is not necessary to further define the cartridge of claim 49 because one of ordinary skill in the art would understand what is being claimed based on the description of a "cartridge" contained in the specification and the illustration of a "cartridge" provided in the drawings. It is noted that the term "cartridge" has been employed in the claim and the specification in its customary manner. If the Examiner still objects to this language, then he is respectfully requested to suggest a substitute limitation that he would consider satisfactory.

Applicants have amended claim 50 to recite that the cartridge includes a wall having an opening. Withdrawal of the rejection is requested.

In responding to the rejections of claims 51 and 53, applicants have incorporated language similar to that suggested by the Examiner.

Applicants have amended claim 54 to recite a top surface including a door which, when opened, provides access to the interior of the cartridge.

The Examiner has rejected claim 60 on the basis that it is unclear whether the shaft is the advancing means. Applicants respectfully note that claim 60 depends from claim 48 and not from claim 49 (claim 49 is the claim which recites an advancing means). Therefore applicants suggest that the rejection of claim 60 should be withdrawn.

In response to the rejection of claim 64, applicants have amended the claim to recite a nexus between the two threaded elements.

The Examiner has rejected claim 73 contending that there is no structure that further defines the intended function, i.e. for mounting the distal end to the trocar cannula. Applicants respectfully disagree. Claim 73 recites that the distal end of the loading and delivery apparatus includes a portion constructed and arranged for mounting to the trocar cannula. Certainly, one of skill in the art would appreciate, after having read the claim in view of the specification, that the distal end of the delivery instrument is of a size and shape for mounting to the trocar cannula. It is well accepted to use the phrase "constructed and arranged" in mechanical type claims as I am sure the Examiner is well aware. Accordingly, the rejection should be withdrawn.

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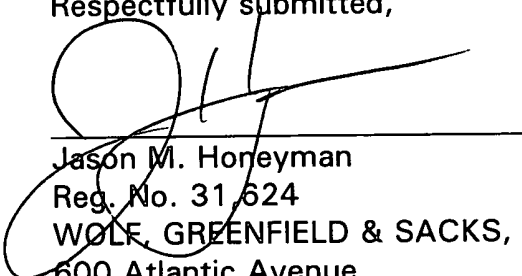
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Applicants note that the parent application was withdrawn from issue to allow consideration of a potential 35 U.S.C. §102(g) issue raised by U.S. patent no. 5,304,187. Without limiting applicants' position, in any way whatsoever, it is submitted that there appears to be interfering subject matter between claims 48, 59-62, 73 and 75-76 of the pending application and claims 25-30 of the '187 patent. Applicants request consideration of the potential interference issues set forth in the petition filed on May 25, 1994 in connection with application serial no. 07/886,689 (parent case).

In view of the foregoing amendments and remarks, applicants respectfully request reconsideration of the pending claims and allowance thereof.

Respectfully submitted,



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D0188/7087

December 5, 1995